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MARY E. D'ANDREA, CLERK
Per AB
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOHN RICHARD JAE,

Plaintiff

v.

DR. ROBERT CLARK, *et al.*,

Defendants

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Civil Action No. 1:00-CV-1090

(Chief Judge Rambo) ✓

(Magistrate Judge Smyser)

**CORRECTIONS DEFENDANTS' MOTION TO DISMISS
PLAINTIFF'S AMENDED COMPLAINT ON THE GROUND OF MOOTNESS**

Defendants Martin L. Dragovich, John A. Palakovich, Robert M. Novotney, Michael J. Kazor and John Andradet ("Corrections Defendants"), hereby move to dismiss plaintiff's Amended Complaint on the ground of mootness. In support of this motion, Corrections Defendants aver the following:

1. The law is settled that a question as to the court's jurisdiction can be raised at any time.
2. The mootness of a claim raises a jurisdictional question.
3. Plaintiff's claims against the Corrections Defendants are moot.
4. On October 24, 2000, plaintiff was transferred to the State Correctional Institution at Greene ("SCI-Greene"), a correctional institution located in Waynesburg, Pennsylvania. See Pa Dept. of Corrections, Inmate Records System, Add/Delete/Transfers Inquiry for

John Jae dated November 17, 2000, which is included as Exhibit 1 to the Appendix to this Motion. *See also* Letter from John Jae to the court sent on October 30, 2000 informing the court of this transfer and referenced in the court's Report and Recommendation, dated November 16, 2000, at p. 9.

5. Since being transferred to SCI-Greene, plaintiff has been held in the correctional institution's Special Management Unit ("SMU"). *See* Pa Dept. of Corrections, Inmate Bed Assignment System, Inmate Cell History for John Jae dated November 17, 2000, which is included as Exhibit 2 to the Appendix to this Motion.
6. Plaintiff's transfer to the SMU is permanent. *See* Pa Dept. of Corrections, Inmate Records System, Personal/ID Data Inquiry for John Jae dated November 17, 2000, which is included as Exhibit 3 to the Appendix to this Motion.
7. At issue in the case against the Corrections Defendants is plaintiff's claim that he was being improperly confined in the Restrictive Housing Unit at the State Correctional Institution at Camp Hill. *See* Report and Recommendation, dated November 16, 2000, at pp. 4-5.
8. As shown by the above-cited documents, plaintiff is no longer being held in Restrictive Housing Unit at the State Correctional Institution at Camp Hill.
9. Plaintiff brought this suit to prevent his transfer to the SMU by the Corrections Defendants. *See* Report and Recommendation, dated November 16, 2000, at p. 5.
10. That claim is now moot in light of his permanent transfer. *See also* Report and Recommendation, dated November 16, 2000, at pp. 9-10 ("If the plaintiff's transfer to the State Correctional Institution at Greene is not merely a temporary transfer, then his claims

for preliminary injunctive relief against the defendants in this case who work at SCI-Camp Hill are moot.)”.

11. Plaintiff cannot obtain any relief from the Corrections Defendants since he is no longer in custody at the correctional institution where they work, *i.e.*, SCI-Camp Hill.
12. To the extent that plaintiff is raising any damage claims against the Corrections Defendants, those claims are barred by 42 U.S.C. § 1997e(e).
13. Thus, plaintiff has no claims against the Corrections Defendants that are not mooted by his permanent transfer to SCI-Greene.

CONCLUSION

WHEREFORE, in light of the foregoing, Corrections Defendants respectfully request that this Court dismiss plaintiff's suit against the Corrections Defendants as moot.

Respectfully submitted,



ROBERT M. WOLFF
Assistant Counsel
Attorney Identification No. 42798
Counsel for Corrections Defendants

Pennsylvania Department of Corrections
Office of Chief Counsel
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444

Dated: November 20, 2000

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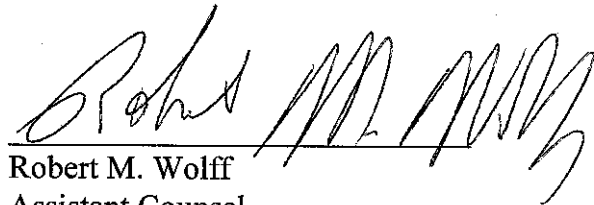
(Chief Judge Rambo)

(Magistrate Judge Smyser)

CERTIFICATE OF PARTIAL CONCURRENCE

Pursuant to Middle District Local Rule 7.1, the undersigned counsel hereby certifies that he has contacted the counsel for defendant Dr. Clark concerning the Corrections Defendants' Motion To Dismiss Plaintiff's Amended Complaint On The Ground Of Mootness and counsel for Dr. Clark has indicated that he concurs in this motion. Corrections Defendants' counsel has not contacted plaintiff who is an inmate.

Respectfully submitted,



Robert M. Wolff

Assistant Counsel

Attorney Identification No. 42798

Counsel for Corrections Defendants

Pennsylvania Department of Corrections
Office of Chief Counsel
55 Utley Drive
Camp Hill, PA 17011
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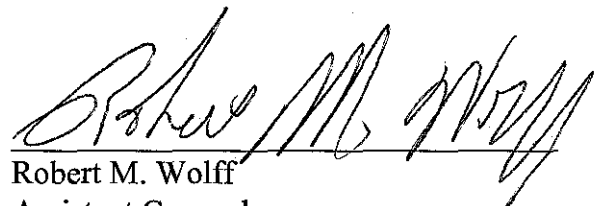
CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true and correct copy of the foregoing
CORRECTIONS DEFENDANTS' MOTION TO DISMISS PLAINTIFF'S AMENDED COMPLAINT
ON THE GROUND OF MOOTNESS, upon the person(s) in the manner indicated below.

Service by first-class mail
addressed as follows:

John Richard Jae, BQ-3219
SCI – Greene
175 Progress Drive
Waynesburg, PA 15370

James D. Young, Esquire
Lavery, Faherty, Young & Patterson
P.O. Box 1245
Harrisburg, PA 17108-1245
Counsel for Dr. Clark



Robert M. Wolff
Assistant Counsel
Attorney I.D. No. 42798

Pennsylvania Department of Corrections
55 Utley Drive
Camp Hill, Pa 17011
(717) 731-0444

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